

Resolution No.: 15-967
Introduced: April 19, 2005
Adopted: April 19, 2005

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Approval of Development Plan Amendment (DPA) 04-2

BACKGROUND

1. Development Plan Amendment ("DPA") application No. 04-2 was filed on April 8, 2004. The Applicant, Auto Park Investment General Partnership II, seeks to amend the approved Development Plan applicable to a 10.2582-acre property that is located on Briggs Chaney Road in the Fairland area, approximately 500 feet east of the intersection of Briggs Chaney and Robey Roads. The 10.2-acre subject property was classified under the C-3 Zone in 1980 via Local Map Amendment ("LMA") No. G-189. The Development Plan for the subject property was amended in 1986 via DPA 86-1. Two later amendments proposed to the Development Plan were ineffective because the executed covenants were not submitted.
2. The subject property is comprised of all or part of four parcels, N 967, P970, N 973 and a portion of Outlot E. The Applicant and a related entity own three of these, P 970, N 973 and a portion of Outlot E.
3. In DPA 04-2, the Applicant seeks a change in use and an increase in density for parcels P 970 and N 973, which comprise the northern half of the site. On the development plan approved in 1986, P 970 is approved for 20,500 square feet of auto dealership use. N 973 is not designated for any development on the 1986 plan, as it was intended to provide access to a regional stormwater management facility on Outlot E. DPA 04-2 seeks approval for a total of 57,749 square feet of development on parcels P 970 and N 973 combined, which together measure about 4.98 acres. Binding elements restrict all parking to designated parking areas, and prohibit any designated parking spaces from being located in any area that constitutes green space, as currently defined in Section 59-A-2.1 of the Montgomery County Code, or in the storm water management access easement to be established at site plan. These binding elements are also reflected in the revised

covenants, which have been properly executed. A general note on the schematic development plan requires approval from the Department of Permitting Services for grading and curb cuts to ensure adequate access to the stormwater management facility. The present DPA does not seek to change the other binding elements on the 1986 plan, which specify a 50-foot front yard setback, a 42-foot side yard setback, and a green space requirement of 15 percent.

4. DPA 04-2 does not seek to change the approved density on Parcel N 967 (Lot 15).
5. Parcels P 970 and N 973 are currently used for automobile storage on a surface parking lot. As a first phase, the Applicant proposes to construct a 57,749-square-foot automobile body shop on Parcels P 970 and N 973, with ten bays for auto body work, approximately 285 surface parking spaces and approximately 163 spaces on a structured roof-top parking deck. The building, with rooftop parking, is intended to be 38 feet in height. The DPA will also permit potential construction of additional parking decks on the roof of the body shop, up to a height of 84 feet, if approved at site plan. The proposed body shop would be part of an overall redevelopment of the auto dealerships owned by the Applicant's parent company, Mile One, in the adjacent Montgomery Auto Park.
6. Technical Staff of the Maryland-National Capital Park and Planning Commission, by memorandum dated October 21, 2004, recommended that the subject application be granted, with certain revisions to the development plan and additional submissions. See Ex. 42. Staff found that the proposed DPA (1) satisfies the purposes of the C-3 Zone by providing for the orderly grouping of commercial development along or near major highways; (2) conforms with the *1997 Approved and Adopted Fairland Master Plan*; (3) satisfies all the development standards for the zone; and (4) will aid in the accomplishment of a coordinated and comprehensive development of the Maryland Washington Regional District.
7. The Montgomery County Planning Board (the "Planning Board") voted unanimously on October 28, 2004 to recommend that the application be approved, subject to compliance with the revisions and submissions identified by Technical Staff. See Ex. 48. In its Board Recommendation dated December 3, 2004, the Planning Board stated that the Applicant had made all of the required revisions and submissions to Technical Staff's satisfaction. See *id.*
8. The District Council considered the present application on March 8, 2005 and voted to remand the case to the Planning Board to reopen the record for the following purposes:
 - (1) To permit the Applicant to amend its schematic development plan and covenants to include binding commitments to the

effect that (a) all parking shall be restricted to designated parking areas; and (b) without limiting (a) above, no designated parking areas shall be allowed within (i) any area that constitutes green space, as currently defined in Section 59-A-2.1 of the Montgomery County Code, or (ii) the storm water management access easement to be established at site plan.

- (2) To seek the Planning Board's recommendation on the application in light of any amendment to the application submitted following the remand.
9. At its meeting on March 31, 2005, the Planning Board reopened the record to admit into evidence a revised schematic development plan and revised, executed covenants submitted by the Applicant that incorporate the restrictions specified in the Order of Remand. The Planning Board also added to the record a brief supplemental report from Technical Staff, dated March 25, 2005, which recommends *approval* of the application. In their supplemental memorandum, Technical Staff found that the amendments made following the remand clarify the parking restrictions by being more comprehensive, making all parking restrictions binding elements, and ensuring that both the schematic development plan and declaration of covenants reflect all binding elements related to parking restrictions. Staff also noted that these amendments address the community's long-standing concerns about parking within the green space on properties within the Auto Park. The Planning Board voted unanimously to recommend that the application be *approved* as currently submitted.
10. There is no opposition to DPA 04-2, the Planning Board does not recommend a public hearing in this case, and no request has been made for a hearing.
11. On April 19, 2005, the District Council reviewed DPA 04-2 and concluded that the DPA meets the requirements of the Zoning Ordinance and its approval would be in the public interest.

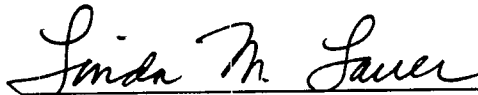
ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

DPA 04-2, which requests an amendment to the Development Plan approved in DPA 86-1 applicable 10.2582 acres of land located on Briggs Chaney Road in the Fairland area, approximately 500 feet east of the intersection of Briggs Chaney and Robey Roads, to permit the

development of a 57,749-square-foot automobile body shop on the portion of said land known as Parcels P 970 and N 973, is approved subject to the specifications and requirements of the Development Plan, Ex. (a), provided that the applicant submits the Development Plan for certification by the hearing examiner under the provisions of §59-D-1.64 within 10 days of the District Council action.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council